

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

DANIEL RUSSELL NIXON,

Plaintiff,

vs.

GARY WAYNE CRIM,

Defendant.

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Case No. 3:05cv133

JUDGE WALTER HERBERT RICE

DECISION AND ENTRY ADOPTING REPORT AND RECOMMENDATIONS
(DOC. #7) OF UNITED STATES MAGISTRATE JUDGE IN THEIR
ENTIRETY; PLAINTIFF'S OBJECTIONS TO SAID JUDICIAL FILING
(DOC. #18) OVERRULED; CAPTIONED CAUSE DISMISSED, WITHOUT
PREJUDICE, FOR FAILURE TO STATE A CLAIM UPON WHICH RELIEF
CAN BE GRANTED; DIRECTIVE TO PLAINTIFF; TERMINATION ENTRY

Based upon the reasoning and citations of authority set forth by the United States Magistrate Judge, in her Report and Recommendations filed April 25, 2005 (Doc. #7), as well as upon a thorough review of the applicable law, this Court adopts said Report and Recommendations in their entirety. The Plaintiff's Objections to said judicial filing (Doc. #8) are overruled.

The captioned cause is ordered dismissed, without prejudice, for failure to state a claim upon which relief can be granted. Judgment is to enter accordingly.

Given that Defendant has now been sentenced, the allegations he wishes to

bring before the Court may be raised on direct appeal and/or in a proper motion to vacate, etc., pursuant to 28 U.S.C. § 2255. Should the Plaintiff wish the undersigned to recuse himself at that time, a separate motion must be filed to that effect.

The captioned cause is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

/s/ Walter Herbert Rice

June 7, 2005

WALTER HERBERT RICE
UNITED STATES DISTRICT JUDGE

Copies to:

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Magistrate Judge Ovington

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WHR/slc